IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTY FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

-

WRIT PETITION NO : 2967 of 2005

Between:

M.Gopal Reddy, S/o.M.Narayana Reddy,
E.No.406098, R/o.D.No.17-228-87,
Neeruganti Street, Anantapur.

..... PETITIONER

AND

The Depot Manager, APSRTC, Anantapur Depot, Ananthapur Dist.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or orders, or direction more particularly one in the nature of writ of Mandamus, declaring the action of the respondents in rejecting the declaring the action of the respondents in rejecting the petitioner claim for injured on duty (I.O.D) through vide proceedings No.03/187/04-ATP dated 16-12-2004 as illegal, arbitrary, unjustified and in violation of the principles of natural justice and contrary to the regulations of the corporation and consequently direct the respondent treat my Leave period on duty for all purposes and to pay full salary to the petitioner.

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondent: MR.P.VINAYAKA SWAMY

The Court made the following :

THE HON'BLE SRI JUSTICE K.C. BHANU

WRIT PETITION NO : 2967 of 2005

ORDER:

The petitioner gave a representation on 8-7-2004 to the respondent stating that he is entitled to the benefits of IOD (Injured on duty) and to pay the same by treating his absence period as on duty. The same was rejected on the sole pretext that the petitioner himself was responsible for the cause of accident. Challenging the same, the present writ petition is filed

The learned counsel for the petitioner contended that the driver of the tractor, who is responsible for the accident, admitted the incident and paid an amount of Rs.8,000/- towards damages to the bus and the police also did not register any case against the petitioner and, therefore, he is entitled to the benefits of IOD (Injured on duty) as per Regulation 46 of Leave Regulations.

In spite of giving several opportunities, the respondent did not file counter.

The short question that falls for consideration in this writ petition is whether the petitioner is entitled to the IOD (Injured on duty) for the accident said to have been occurred en route Anantapur to Bellary.

Regulation 46 of Leave Regulations reads as under:

> *"46: Hospital leave: Subject to the provisions of this regulation, a competent authority may grant hospital leave to employees other than those in Class I or Class II Services which they are undergoing medical treatment for injuries sustained on duty."*

If there is any negligence on the part of the petitioner, then it would be a different matter. The petitioner categorically asserted in the affidavit that no case is registered against him in pursuance of the accident and in view of the compromise, the tractor driver, who caused the accident, paid damages caused

to the bus. Therefore, there is no basis for the Assistant Manager in coming to the conclusion that the writ petitioner is responsible for the cause of the accident. If there is any material available for the respondent-corporation that the accident occurred due to the negligence or even contributory negligence on the part of the petitioner, then the petitioner is not entitled to the IOD (Injured on duty) in view of the regulation 46 of Leave Regulations. So, without there being any material available establishing that the petitioner is responsible for the accident, the impugned proceedings suffer from serious infirmities as it does not contain any reasons.

Hence, the order impugned is set aside and remanded to the respondent for proper decision in accordance with law, within a period of two months from the date of receipt of a copy of this order.

The writ petition is allowed accordingly. No costs.

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31-03-2005

rkk

Copy to:

1. The Depot Manager, A.P.S.R.T.C., Anantapur Depot, Anantapur District.

2. Two C.D.Copies.